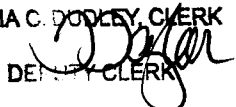


JAN 15 2013

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

JULIA C. DODLEY, CLERK
BY: 
DEPUTY CLERK

LEVI GARY SPRINGER,)	Civil Action No. 7:12cv00074
Plaintiff,)	
)	ORDER ADOPTING REPORT
v.)	AND RECOMMENDATION
)	
RANDAL MATHENA, <i>et al.</i> ,)	By: Samuel G. Wilson
Defendants.)	United States District Judge

Levi Gary Springer, a Virginia inmate proceeding *pro se*, filed this civil rights action pursuant to 42 U.S.C. §1983 alleging that the defendants subjected him to cruel and unusual punishment and interfered with his access to courts.¹ The court referred the matter to United States Magistrate Judge Pamela Meade Sargent for a Report and Recommendation pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge filed a report, recommending that the court grant in part and deny in part the defendants' motion for summary judgment. Specifically, she recommended that the court grant defendants' motion for summary judgment as to all claims except Springer's claims that he was subjected to cruel and unusual punishment concerning feces and urine being placed in the ventilation system and that he was denied access to courts concerning his petition for rehearing in the United States Court of Appeals for the Fourth Circuit.

Springer filed a single objection to the Report and Recommendation as it concerns the Magistrate Judge's recommendation to grant defendants' motion for summary judgment as to Springer's claim that he was denied access to the Supreme Court of the United States "through legal case law material, copies of the petition for writ of certiorari to opposing counsel, and the mailroom's failure to deliver petitioner's legal mail," in which he largely reiterates arguments

¹ More specifically, Springer alleges that he was subjected to cruel and unusual punishment in that his food was tampered with, feces and urine were placed in the ventilation system leading to his cell, and he was denied medical treatment; and he alleges that he was denied access to courts (the Wise County Circuit Court, the United States Court of Appeals for the Fourth Circuit, and the Supreme Court of the United States) in that he was only given limited access to legal resources, he was denied access to a notary public, and his legal mail was tampered with and not delivered in some instances.

made in his prior pleadings. Having reviewed the Report and Recommendation, the objection thereto, and pertinent portions of the record *de novo* in accordance with § 636(b)(1), the court agrees with the Magistrate Judge's recommendation. Accordingly, it is hereby **ORDERED** and **ADJUDGED** that:

- 1) Springer's objection to the Report and Recommendation (Docket No. 78) is **OVERRULED**;
- 2) the Magistrate Judge's Report and Recommendation (Docket No. 74) is **ADOPTED** in its entirety;
- 3) Springer's motion for summary judgment (Docket No. 58) is **DENIED**;
- 4) the defendants' motion for summary judgment (Docket No. 44) is **GRANTED in part and DENIED in part**:

a. it is denied in part as to Springer's claims that

- i. he was subjected to cruel and unusual punishment concerning feces and urine being placed in the ventilation system and
- ii. he was denied access to courts concerning his petition for rehearing in the United States Court of Appeals for the Fourth Circuit;

b. it is granted in part as to all remaining claims;

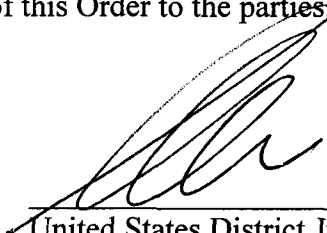
- 5) because defendants' prior motion for summary judgment did not address the merits of Springer's remaining cruel and unusual punishment claim and did not directly address the merits of Springer's remaining access to courts claim by providing any evidence outside of the record, defendants are hereby **DIRECTED**, pursuant to this court's Standing Order No. 2011-18, to file a supplemental motion for summary judgment, supported by

affidavits and any necessary exhibits, addressing the merits of each of the remaining claims within 30 days from the entry of this order;

- 6) this matter remains **REFERRED** to Magistrate Judge Pamela Meade Sargent pursuant to § 636(b)(1)(B), and she shall file her proposed findings of fact and recommendations for disposition of the remaining claims.

The Clerk of the Court is directed to send copies of this Order to the parties.

ENTER: This 15th day of January, 2013.


United States District Judge